

REMARKS

Reconsideration and allowance of the subject application are respectfully requested.

Claims 1-11 have been examined and are all the claims pending in the application.

I. 112 Rejection

A. 112, First Paragraph

Claim 6 is rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the written description requirement because of the limitation, “‘software instructions’ which has never been specified in the original disclosure”. Applicant has amended claim 6 and respectfully requests the Examiner to withdraw the rejection.

B. 112, Second Paragraph

Claim 6 is rejected under 35 U.S.C. § 112, second paragraph as allegedly being indefinite because of the limitation “adapted to”. Applicant has amended claim 6 and respectfully requests the Examiner to withdraw the rejection.

II. 101 Rejection

Claim 6 is rejected under 35 U.S.C. § 101 as allegedly directed to non-statutory subject matter. Applicant has amended claim 6 and respectfully requests the Examiner to withdraw the rejection.

III. 103 Rejections

Claims 1, 2, 6-8, 10 and 11 are rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Thomas Hedberg et al, “Evolving WCDMA”, ERICSSON REVIEW, ‘Online! No. 3, 2001, pp. 124-131, XP002228837 (hereinafter “Hedberg”)¹ in view of Hiramatsu et al., “Transmit Diversity Applied on the CDMA/TDD Cellular System” IEEE Publication, May 15-18, 2000 (hereinafter “Hiramatsu”).

Claim 1 recites, in part, the feature of “sending one of the first signals to one of the plurality of user equipments on one of the dedicated channels on a carrier frequency by applying transmit diversity along with one of the second signals on the code-multiplexed shared channel on the carrier frequency by applying multi-user diversity through the assigned antenna.” The Examiner cites page 126 of Hedberg for teaching sending one of the first signals to one of the plurality of user equipments on one of the dedicated channels on a carrier frequency by applying transmit diversity. However, Applicant respectfully submits that Hedberg fails to teach sending one of the first signals to one of the plurality of user equipments on one of the dedicated channels on a carrier frequency *by applying transmit diversity along with one of the second signals on the code-multiplexed shared channel on the carrier frequency by applying multi-user diversity through the assigned antenna*, as recited by claim 1. Hiramatsu does not cure the deficiency. Accordingly Applicant respectfully submits that claim 1 is patentable over Hedberg and Hiramatsu for this reason.

¹ The Examiner incorrectly states that Hedberg is “Admitted Prior Art”. However, Applicant submitted Hedberg in an Information Disclosure Statement filed December 12, 2003. Accordingly, as indicated on page 2 of the Information Disclosure Statement, the submission of listed documents is not intended as an admission that any such document constitutes prior art against the claims of the present application.

Claim 6 recites similar features to claim 1, and accordingly, claim 6 is patentable over Hedberg and Hiramatsu for the same reasons. The remaining claims are patentable based on their respective dependencies.

Accordingly, Applicant respectfully submits that claim 1 is patentable over Hedberg and Hiramatsu. The Examiner then asserts that one of ordinary skill in the art would have been motivated to modify the system taught by Hedberg to use transmit and multi-user diversity in order to enhance the capacity, coverage and reliability of the wireless system.

Claims 3, 4, 5 and 9 are rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Hedberg in view of Hiramatsu and further in view of Dahlman et al. (U.S. Patent Application 2002/0145988; hereinafter "Dahlman").

Each of these claims depends from claim 1 or claim 6, respectively, both of which have been shown above to be patentable over the Hedberg and Hiramatsu combination. Dahlman does not cure the deficiencies of Hedberg and Hiramatsu discussed above. Accordingly, Applicant respectfully submits that claims 3, 4, 5, and 9 are patentable over Hedberg, Hiramatsu, and Dahlman, either alone or in any conceivable combination.

IV. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.


Respectfully submitted,

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Date: September 4, 2007